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ACIL

The Association of Independent Scientific, Engineering and Testing Firms

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Dec. 21, 1995

Mr. L. Art Wall
Chief, Sampling & Measurements Branch
Federal Communications Commission
7435 Oakland Mills Road
Columbia, MD 21046-1609

Subject: Proposed Part 15 Rulemaking

Dear Art:

I am writing you as Chairman of the ACIL EMC Subcommittee in order to express the concerns and suggestions of our members regarding anticipated Part 15 rulemaking related to computing devices and their associated approval process.

ACIL, the Association of Independent Scientific, Engineering and Testing Firms, represents over 450 nationwide independent engineering organizations and testing laboratories who address the conformity assessment needs of a wide range of industry sectors including, telecommunications, consumer electronics, medical devices and information technology equipment. The EMC Subcommittee, part of ACIL's Conformity Assessment Section, represents 15 of the nation's leading EMC and OSHA NRTL testing laboratories. The ACIL EMC Subcommittee has been and remains the industry's leading spokesman through its consistent consensus building efforts. These efforts have included joint sponsoring of the 1991 N.I.S.T./ACIL/AEA European Community EMC Related Workshop and our current secretariat role regarding the Dept. of Commerce's Technical Sectoral Advisory Committee on EMC and Telecom related to the European Union. ACIL also provides a federal appointed technical expert, Walter Poggi, to the ongoing U.S./European Union Mutual Recognition Agreement trade negotiations.

It is our understanding that the Commission has received an informal request from the Computer and Business Equipment Manufacturers Association (CBEMA) to consider revising its current Part 15 approval process for computing devices from the current verification/certification procedures to a manufacturer's Declaration of Conformity (DOC) process. We further understand that the Commission is currently reviewing this request and is considering formal rulemaking related to this request.

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While we do see merit in the DOC approach we believe that any potential rulemaking should also address two additional areas which we believe are integral to any successful DOC-based approval process and which we would view as necessary before endorsing any revision of the Part 15 rules to embrace an approval system based on manufacturer's DOC.

Area #1 - Formally Accredited Independent Laboratories

Specifically we believe that any modifications to Part 15 to allow for manufacturer's DOC should be coupled with revisions related to the requirement of independent testing laboratories which supply test data both to the Commission directly was well as indirectly through the support of manufacturer's DOC. It is our position that in conjunction with any regulatory revisions to accept manufacturer's DOC the Commission should also revise its acceptance criteria for independent laboratories only from the current "FCC Listed" approach to a mandated NVLAP accreditation approach.

Area #2 - Enhancement of a Manufacturer's DOC

Because it is a document attesting to the compliance of a product, the DOC will be a powerful document. Accordingly we believe it should clearly define certain aspects of the testing that supports it. Items such as the name of the company official responsible for the testing, the location where the testing was performed, the date of when the testing was performed, and, if an independent testing laboratory was used, its NVLAP identification code, should all be included on a DOC.

We believe the addition of these two areas to the potential rulemaking will result in several clear advantages for the manufacturers and laboratories involved as well as the Commission itself. These advantages include:

Protection of the Interests of Reputable Manufacturers and Laboratories

Even under the current FCC Part 15 rules, which clearly can be viewed as more stringent than the suggested DOC approach, abuses related to independent laboratory testing exist. In "quickly" researching this area we have identified two cases of completely fabricated Part 15 verification test reports from testing laboratories that simply did not exist and therefore were never FCC Listed. We believe that in a less regulated DOC system, abuses such as these could be even greater. A requirement which mandated the use of NVLAP accredited laboratories, when a manufacturer elects to contract such services, would protect the interests of manufacturers from fraudulent laboratory services. Such a mandate would also protect the interests of the vast majority of testing laboratories which are reputable and which have made the commitment in equipment and personnel to provide competent professional testing services.

In addition, we view it as important to assure that under a DOC system, the interests of U.S. manufacturers and laboratories be protected from what could be classified as our "less developed" international trading partners. Clearly the danger would exist for smaller, transient, offshore manufacturers to merely "slap on" a manufacturer's DOC. The introduction by the Commission of a more formalized and accountable network of independent laboratories would help to deter such activities.

Better Enforcement of the Regulations

It is our belief that the only way a system based on manufacturer's DOC can effectively operate is if it is truly believed by all involved that enforcement will take place. A network of "government approved" NVLAP accredited laboratories can help in the better enforcement of any and all Commission regulations. We would suggest that a network of accredited independent laboratories could be utilized by the Commission's Field Offices for timely compliance checks of questionable or clearly violating equipment.

Harmonization With International Practices and Improvement in the Global Competitiveness of U.S. Manufacturers and Laboratories

Just as the concept of manufacturer's DOC is rooted in many international conformity assessment schemes, so is the concept of mandated formally accredited testing laboratories. For the Commission to embrace such a concept would result in better acceptance of U.S. generated test data, there by assisting both U.S. manufacturers and laboratories in their international marketing efforts. In addition, we believe that the use of the NVLAP accreditation program would be of help to the Commission in its own international efforts where it is called upon to be the lead U.S. government agency in the areas of EMC and Telecommunications. A review of the current Commission efforts in such areas and in regards to proposed Mutual Recognition Agreements will attest to the need and benefits of a formalized laboratory accreditation program.

As articulated both in this document and in CBEMA's letter, any potential rulemaking in this area has international implications. Whether it be harmonization of systems or competitiveness of U.S. manufacturers or laboratories, it is clear that both industry sectors, manufacturing and testing, believe that the international impact will be important. Accordingly we would suggest that the Commission solicit opinions from other involved governmental agencies, such as USTR and European Affairs Office of the Dept. of Commerce, as to the merit of these concepts in light of overall U.S. global trading strategies.

In conclusion, we respectfully request that the FCC consider these recommendations for inclusion in any potential rulemaking addressing the revision of Part 15 as related to the approval process for Computing Devices. We stand ready to assist the Commission in whatever way it may wish in support of the rulemaking process.

With deepest regards,

Walter A. Peggi
Chairman, ACIL EMC Subcommittee

WAP/ap
cc. J. O'Neil ACIL, ACIL EMC Subcommittee
Kim Phillipi ACIL/CAS, Herb Wilgis ACIL/GR